

The Importance of Voluntary Governance

By Edward Peter Stringham *The Conversation* October 19, 2015

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How much can governance be voluntary, and how does that differ from traditional government? I appreciate the discussion of [Private Governance](#) from each of the commentators who raise many good questions. Let me focus on [Aaron Ross Powell's comments](#) here. Powell starts with much praise, stating "Stringham's *Private Governance* confirms my priors: The state is generally bad at governing, and private individuals typically do a much better job governing themselves. Emergent orders are super neat and trounce the clumsy fist of coercive, monopolistic government. What to say about a book I largely agree with?" but then he asks us to consider the differences or similarities between private governance and traditional government.

Powell writes, "I often found myself confused about how we might distinguish private from public" and concludes, "unless I missed it, Stringham doesn't give a clear definition of 'state.'" Powell goes on to discuss Weber's definition of the state, a community that claims a monopoly of physical force within a community and Powell distinguishes that from voluntaryism by pointing out that the state funds its activity with taxes. I find this definition of government or the state entirely satisfactory, and in *Private Governance* I wanted to use the terms as most others do. Although I believe referring to government as coercive is redundant (and could imply that some governments are not coercive), I will refer to coercive government here to help contrast it with voluntary private governance.

Powell is correct that most of the entities I describe do not resort to violence, so they would not come close to meeting any Max Weber style definition of government. These providers of governance help ensure contractual compliance, something that most people assume must be done by coercive government, but that they do by purely voluntary means. Because some of the most sophisticated and important contracts in history have been enforced through private non-coercive means, I would like everyone to agree that coercive government enforcement of contracts is not the absolute necessity that most everyone previously assumed.

Relying less on coercion helps transform relationships into mutually beneficial ones. Powell, however, asks whether certain governmental arrangements can be considered voluntary or how much they differ from the examples of private governance that I describe. Powell suggests that an immigrant agrees to the rules of a government in the same way that he agreed to the rules of his homeowners' association.

Here is our first major point of disagreement. Even if we assume for the moment that immigrants are voluntary customers of existing governments, that says little of the relationship between government and everyone else. My ancestors in New Netherland did not agree to be taken over by the English 350 years ago, and none of my ancestors were present at the Constitutional convention twelve decades after that. Nevertheless, they and all of their descendents became subjects of the British Crown and American politicians since. To liken an entity that asserts monopoly control to two billion acres under its control, to a voluntary arrangement like a homeowner's association seems like a stretch. Such logic could also be used to state that everyone in Russia and the Soviet Union agreed to be subject to the czars and members of the communist party. The important difference is that providers of private governance do not claim jurisdiction over non-members and must persuade, rather than use force, to get people to join them.

Powell also suggests that governments must cater to the wishes of potential or existing residents in the same way that private entities do.

He writes:

What about the claim that “providers of private governance have an incentive to provide assurances that they will treat their clients well,” because “otherwise, the demand for their product will not be as high as it could be?” (29) That pretty accurately describes what’s going on when citizens of one country leave it for greener pastures. Then there’s the idea that “even if future customers are not present when private governance mechanism are put in place, private governance providers must heed future customer demands.” (29) Again, how does this not apply to public governments as well, at least those that are nominally democratic?

Here too I beg to differ. In a private voluntary arrangement, the provider of governance does not have unwilling “customers.” Coercive government, in contrast, has the ability to treat citizens as sources of revenue or subjects to control. Although residents of Cuba, Syria, or any other country who are unhappy with the “customer” service from their government can pick up and leave, doing so is tremendously costly and the resident cannot take his land or other real property when he leaves. Bryan Caplan points out that this means [bad or extractive government policies become negatively priced into property in a jurisdiction](#). Someone who owned a hotel in Cuba before and after the communist revolution cannot say, “I know that Castro cares about maximizing the value of my land, because if I am unhappy I can cash out and move my hotel to a more business friendly location.” Instead the burden of the bad or extractive policies is borne by the subjects, not Castro.

The exact same logic applies in modern democratic governments like the United States. Landowners or businesses that become subject to more restrictive regulation, regulatory takings, or increased taxation bear the burden of those damaging policies. “Love it or leave it” or “If you are unhappy, just vote them out of office” are extremely weak constraints on government officials whose goal is to extract resources or exert control.

In contrast, providers of private governance face very different incentives. Consider, for example, a rule-enforcing landlord pondering rules that the residents would disfavor. Here the badness of policies become priced into the rent that the landlord receives, and it will hurt the landlord. The landlord thus becomes a residual claimant for how well he is pleasing residents. I explore this idea in much more depth in an article I published in the *Journal of Institutional and Theoretical Economics* titled: [“Overlapping Jurisdictions, Proprietary Communities, and Competition in the Realm of Law.”](#) That article also features more discussion of the definition of government compared to private forms of enforcement.

The logic of a landlord’s potentially bad policies negatively affecting the income of the landlord also applied to other private governance whose business thrives, lives, or dies on the effectiveness of rules and regulations within their realm. If eBay imposes bad rules and regulations on its market, demand for doing business on eBay will decrease, and the biggest loser would eBay. That means that providers of private governance like eBay continually search for rules and regulations that their customers desire. In stark contrast, if economically illiterate senators like Senators Dodd and Frank impose rules that [cost market participants billions of dollars per year](#), the market participants, not Dodd or Frank, bear those costs. Voting the now-retired Dodd and Frank out of office is not even an option.

The major difference between coercive government and private governance is choice. Powell is correct when he concludes that my normative ideal has many similarities with the third section of Nozick’s *Anarchy, State, and Utopia*. But where Nozick argued that government must create the framework for utopia by allowing people to opt into communities that they like, I disagree that government is created, or necessary, for the enforcement property rights and contracts. I am grateful for Aaron Powell’s discussion and questions, but believe that the evidence suggests that order is created privately all the way down.